

REMARKS

Claims 53-74 are pending in the current application and have been rejected. Reconsideration is requested.

Claims 53, 55-64 and 66-70 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kalloo et al., U.S. Pat. No. 6,572,629. Applicant respectfully traverses this rejection.

Kaloo does not disclose "the pouch volume separate from and in communication with the main volume" as recited by independent claims 53, 64, and 71. In paragraph [0088] of the present application, modified pouch **22** accepts food from the esophagus, while main pouch **20** may remain intact and function normally. "Acids and other fluids that may be generated in main lumen **28** may drain through the reduced outlet near pylorus **18** and may pass through the digestive system normally." Id. Kaloo et al., conversely, discloses a gastric reduction procedure wherein "associated portions of the wall of the stomach will be drawn together to close-off and generally collapse a portion of the stomach." See Kaloo et al. col. 6, lines 27-29. The preferred use of a slip knot in Kaloo et al. "to allow the constricting movement of the loop material but to effectively prevent the expansion of the loop" alludes to closing off of the residual stomach in contradistinction to the claimed method. Because there is no disclosure in Kaloo et al. for a "pouch volume separate from and in communication with the main volume, claims 53-74 are allowable over Kaloo et al.

Claims 54, 65, and 71 – 74 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pietrafitta et al., U.S. Patent No. 5,355,897. Pietrafitta is cited in the Office Action at page 3, but no further reference is made to the teachings of Pietrafitta. Moreover, Pietrafitta discloses a method for performing a pyloroplasty, and the treatment site is within the pylorus, not within

the stomach as claimed in the current application. Pietrafitta defines "pyloroplasty" at col. 1, lines 40-44 as "a surgical procedure which involves the reshaping of the pylorus and the subsequent attachment of the subsequent attachment of the lower part of the stomach proximal to the pylorus to the anterior portion of the duodenum distal to the pylorus." This section from Pietrafitta describes the pylorus as being located between the lower part of the stomach and the anterior portion of the duodenum, and does not teach or suggest that the pylorus is within or a part of the stomach.

Further, col. 7, lines 2-37 of Pietrafitta discloses that the pyloroplasty device is positioned within the pylorus (not the distal portion of the stomach) and the pylorus is dilated until tissue from the pylorus is positioned in gap 12 of the device. Further, this section of Pietrafitta discloses that staples are driven through the tissue in gap 12 of the device while a cutting blade 68 cuts a section 156 of the pylorus contained within the gap. Therefore, the treatment site disclosed in Pietrafitta is not located within the stomach as claimed, but is within the pylorus.

Further, Pietrafitta does not form a pouch within the stomach as claimed in the current application. Pietrafitta places a row of staples in tissue of the pylorus as shown in FIGS. 10 and 11, which does not form a pouch. For all of these reasons, claims 54, 65, and 71-74 are allowable over Pietrafitta.

In view of the foregoing, Applicant respectfully submits that all pending claims are in condition for allowance. Reexamination and reconsideration of the application are respectfully requested and allowance at an early date is solicited.

The Commissioner is authorized to charge deposit account no. 06-2425 for any unforeseen fees arising from the filing of this paper.

Respectfully submitted,

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